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Application No.: 10/748739

Case No.: 59494US002

4. (Newly Presented) The grout composition of claim 1 wherein said composition contains from about 0.01 to about 1 weight percent of said urethane oligomers.

5. (Newly Presented) The grout composition of claim 1 further comprising at least one selected from the group consisting of biocide, surfactant, anti-foam agent, anti-slip particles, and colorants.

REMARKS

Reconsideration is requested.

Status of Claims

Claims 1-5 are pending. Claim 1 is amended; claims 2-5 are added.

Discussion of Amendments

Claim 1 is amended to explicitly recite that the polymeric grout composition contains polymeric resin material and filler.

New claims 2 and 3 are directed to specific embodiments of the resin and filler, respectively. Antecedent basis for these amendments is found at page 31, lines 2-4.

New claim 4 is directed to specified embodiments of compositions of the invention. Antecedent basis for claim 4 is found at page 31, lines 12-13.

New claim 5 is directed to embodiments with specified additives. Antecedent basis for claim 5 is found at page 31, lines 14-18.

35 U.S.C. §112, First Paragraph

Claim 1 is amended to delete the phrase "optionally substituted". This amendment is made without prejudice and to expedite prosecution. Applicants respectfully submit that the term is enabled and would be understood by one with ordinary skill in the art.

Application No.: 10/748739Case No.: 59494US00235 U.S.C. §102(a)

Claim 1 was rejected as anticipated by either of Fan PCT or Fan US.

Fan PCT and Fan US both relate to coating compositions that can be applied to substrates to impart modified surface properties thereto. In contrast, the present invention is directed to grout compositions having improved properties.

In Fan PCT and Fan US, existing grout structures or substrates are treated by application of the specified coating compositions to impart desired properties to the substrate. In the present invention, the grout composition comprises specified additives, i.e., the urethane oligomers recited in claim 1, to impart desired properties to the grout material and thus, inherently imparting desired properties to the resultant structures made from such grout compositions.

In Fan PCT and Fan US, the subject coating material is applied from a solvent-containing composition. Application to a grout substrate constitutes a separate action or processing step. In the present invention, the subject oligomers are incorporated into the grout composition; thus, no subsequent processing step following formation of the grout structure is required.

For these reasons, Applicants respectfully submit that present claims are not anticipated by the prior art; withdrawal of the rejections for anticipation over Fan PCT and Fan US is requested.

Obviousness-Type Double Patenting

Claim 1 was rejected for obviousness-type double patenting over claims 1-34 of Fan US and provisionally rejected for obviousness-type double patenting over claims 24-27 of copending Fan Application.

A terminal disclaimer over Fan US, i.e., U.S. Patent No. 6,646,088 (Fan et al.), is enclosed. Applicants respectfully submit that this renders moot the rejection for obviousness-type double patenting.

Fan Application, i.e., U.S. Application No. 10/957,355, is not yet issued, accordingly. Applicants respectfully request that the provisional rejection for obviousness-type double patenting thereto be withdrawn.

Application No.: 10/748739

Case No.: 59494US002

CONCLUSION

In view of the aforesgoing amendments and terminal disclaimer submitted herewith,
Applicants respectfully submit that the Application is in condition for allowance.

Respectfully submitted,

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Date

By: Robert H. Jordan

Robert H. Jordan Reg. No.: 31,973
Telephone No.: 651-733-6866

Office of Intellectual Property Counsel
3M Innovative Properties Company
Facsimile No.: 651-736-3833